

**NUCLEAR REGULATORY COMMISSION**

**[Docket Nos. 72-1031; 72-38; 72-44; 72-45; and 72-77; NRC-2022-0113]**

**Constellation Energy Generation, LLC;**

**Arizona Public Service Company;**

**Duke Energy Carolinas, LLC.**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Exemptions; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) issued four exemptions in response to requests from Arizona Public Service Company; Constellation Energy Generation, LLC; and Duke Energy Carolinas, LLC. The exemptions will allow the licensees to deviate from the requirements for the MAGNASTOR® storage cask system in Certificate of Compliance No. 1031, Amendment No. 7 and Amendment No. 9, by utilizing storage cask lids that were not fabricated in accordance with the requirements of two codes issued by the American Concrete Institute. The NRC is issuing a single notice to announce the issuance of these exemptions because these are nearly identical.

**DATES:** The two exemptions to Arizona Public Service Company; Constellation Energy Generation, LLC were issued on May 13, 2022, and two exemptions were issued to Duke Energy Carolinas, LLC on May 16, 2022.

**ADDRESSES:** Please refer to Docket ID **NRC-2022-0113** when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2022-0113**. Address questions about Dockets IDs in

Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumanns@nrc.gov. For technical questions, contact the individual listed in the “For Further Information Contact” section of this document.

- **NRC’s Agencywide Documents Access and Management System**

**(ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov). For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.

- **NRC’s PDR:** You may examine and purchase copies of public documents, by appointment, at the NRC’s PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Bernard White, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-6577, email: [Bernard.White@nrc.gov](mailto:Bernard.White@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

The NRC issued four exemptions in response to requests dated March 31, 2022, and April 7, 2022, from Constellation Energy Generation, LLC and Arizona Public Service Company; and Duke Energy Carolinas, LLC, respectively. The exemptions

allow exemption from the requirements of title 10 of the Code of Federal Regulations (10 CFR) sections 72.212(a)(2), 72.212(b)(3), 72.212(b)(5)(i), 72.214, and the portion of 10 CFR 72.212(b)(11) which requires compliance with the terms and conditions set forth in the certificate of compliance for each spent fuel cask used by an independent spent fuel storage installation general licensee.

The exemptions requested authorization to load, and store spent fuel in MAGNASTOR® storage casks with lids that were not fabricated in accordance with Technical Specification A4.2 as specified in Amendment Nos. 7 and 9 of the NAC International Certificate of Compliance No. 1031 for the MAGNASTOR® storage system. Amendment No. 7 is used at the Catawba, McGuire and Palo Verde independent spent fuel storage installations. Amendment No. 9 is used at the Three Mile Island, Unit 1 independent spent fuel storage installation.

Technical Specification, Appendix A, A4.2 requires the concrete cask to be designed and fabricated in accordance with the American Concrete Institute Specifications ACI-349, "Code Requirements for Nuclear Safety Related Concrete Structures," and ACI-318, "Building Code Requirements for Structural Concrete," which according to the technical specifications govern the concrete cask design and construction, respectively.

NAC submitted an amendment request to eliminate the need for compliance with the referenced technical specification for the concrete in the cask lids in the Certificate of Compliance No. 1031 for the MAGNASTOR® storage system, however the exemptions were necessary to meet loading campaigns scheduled before resolution of the NAC's amendment request. The applications provided information documenting that concrete in the cask lids is not relied upon for the strength safety function provided by the ACI codes in Technical Specification, Appendix A, A4.2, and the concrete in the cask lids

was fabricated using standards that ensure the concrete will continue to meet the required shielding safety function. Based on the NRC staff's evaluation of the exemption requests, and the statements and representations provided by the applicants in the exemption requests, the staff concluded that the proposed actions to exempt the cask lids from the current Technical Specification in A4.2 at each of the ISFSI sites is authorized by law and will not endanger life, property, or the common defense and security, and is otherwise in the public interest and, therefore meets the exemption requirements in 10 CFR 72.7.

## II. Availability of Documents

The following table provides the facility name, docket number, document description, and ADAMS accession numbers related to each exemption issued. For further details with respect to these exemptions, see the requests for exemption for each facility in ADAMS. For additional directions on accessing information in ADAMS see the **ADDRESSES** section of this document.

DOCUMENT DESCRIPTION	ADAMS ACCESSION NO.
<b>Palo Verde Independent Spent Fuel Storage Installation DOCKET NO. 72-44</b>	
Palo Verde Nuclear Generating Station Units 1, 2, and 3 and Independent Spent Fuel Storage Installation Docket Nos. STN 50-528/529/530 and 72-44 Renewed Operating License Nos. NPF-41, NPF-51, NPF-74 Request for Exemption from NAC-MAGNASTOR Certificate of Compliance 72-1031 - Cask Lid Design Requirements, dated March 31, 2022.	ML22090A098
Palo Verde Nuclear Generating Station Units 1, 2, and 3 and Independent Spent Fuel Storage Installation Docket Nos. STN 50-528/529/530 and 72-44 Renewed Operating License Nos. NPF-41, NPF-51, NPF-74 Request for Exemption from NAC-MAGNASTOR Certificate of Compliance 72-1031 - Cask Lid Design Requirements – Supplement, dated April 28, 2022.	ML22118B162
Issuance of exemption for Palo Verde ISFSI	ML22111A282 (Package)
<b>Three Mile Island, Unit 1 Independent Spent Fuel Storage Installation Docket No. 72-77</b>	
Request for an Exemption to the Requirements of Certificate	ML22090A182

of Compliance No. 1031 for the NAC MAGNASTOR® Storage System, dated March 31, 2022.	
Supplemental Information to Exemption to the Requirements of Certificate of Compliance No. 1031 for the NAC MAGNASTOR® Storage System, dated April 26, 2022.	ML22116A236
Issuance of exemption for TMI-1 ISFSI	ML22110A110 (Package)
<b>Catawba Independent Spent Fuel Storage Installation Docket No. 72-45</b>	
Request for an Exemption to the Requirements of Certificate of Compliance No. 1031 for the NAC MAGNASTOR Storage System, dated April 7, 2022.	ML22097A057
Supplement to the Request for an Exemption to the Requirements of Certificate of Compliance No. 1031 for the NAC MAGNASTOR Storage System, dated April 28, 2022.	ML22118B165
Issuance of exemption for Catawba ISFSI	ML22111A356 (Package)
<b>McGuire Independent Spent Fuel Storage Installation Docket No. 72-38</b>	
Request for an Exemption to the Requirements of Certificate of Compliance No. 1031 for the NAC MAGNASTOR Storage System, dated April 7, 2022.	ML22097A057
Supplement to the Request for an Exemption to the Requirements of Certificate of Compliance No. 1031 for the NAC MAGNASTOR Storage System, dated April 28, 2022.	ML22118B165
Issuance of exemption for McGuire ISFSI	ML22111A310 (Package)
<b>NAC International Amendment Request</b>	
Submission of an Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated January 24, 2022.	ML22024A374
Supplement to NAC's Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated March 18, 2022.	ML22077A769
RAI Response to NAC's Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 12, dated April 18, 2022.	ML22108A197

The NRC may post additional materials related to this document, included public comments, on the Federal rulemaking website. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additional occur in a docket folder. To subscribe: 1) navigate to the docket folder (**NRC-2022-0113**);

2) click the "Subscribe" link, and 3) enter your email address and click on "Subscribe" link.

Dated: May 31, 2022.

For the Nuclear Regulatory Commission.

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